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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,067	10/30/2001	Dominicus Limerkens	P-282665/EUR	4562
909	7590	03/15/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			COONEY, JOHN M	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

1711

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/890,067

Applicant(s)

LIMERKENS ET AL.

Examiner

John m Cooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☒ Claim(s) 25 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1203.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12-29-2003 has been entered.

All rejections under 35 USC 112 1<sup>st</sup> paragraph are hereby withdrawn in light of applicants' arguments.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by H\*-327,728(Suzuki).

Suzuki discloses preparations of polyurethane foams from isocyanates as defined by applicants' claims, polyols as defined by applicants' claims, in the presence of water, as an economical, easy to use co-blowing agent, and thermally expandable

microspheres, wherein the foams are prepared by methods encompassing of applicants' claims, and the products obtained have densities and other properties encompassing of applicants' claims (see the entire document).

Claims 1,2, 4, 7-23, 26, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrison et al.(5,260,343).

Harrison et al. discloses preparations of polyurethane foams from isocyanates as defined by applicants' claims, polyols as defined by applicants' claims, in the presence of water, as an economical, easy to use co-blowing agent, and thermally expandable microspheres, wherein the foams are prepared by methods encompassing of applicants' claims, and the products obtained have densities and other properties encompassing of applicants' claims (see the entire document).

All of applicants' arguments have been considered. However, rejection is maintained for the reasons set forth above. The teachings of Harrison et al. must be taken in their totality. Harrison et al. disclose numerous species, which will provide for thermoplastic product realization, and the teachings of the examples do not negate the totality of the teachings of the reference. Claims 26 and 27 are further rejected because these claims, without the binder, or further definition of the pellets, do not distinguish over the disclosure of Harrison et al.

Applicant further argues:

Harrison discusses a process that comprises:

reacting a polyisocyanate component with a isocyanate reactive compound. . . in the presence of . . . thermoplastic spheres containing a volatile hydrocarbon as a co-blowing agent with water.

Accordingly, as Harrison discusses a process wherein microspheres are added to the components that react to form a polyurethane, the method of the presently claimed invention is not anticipated by Harrison.

Examiner holds, argues, and maintains that this point does not and/or is not seen to distinguish the claims over the cited Harrison et al. teaching at column 2 lines 37-43 or in its entirety.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3,5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison et al.

Harrison et al. cited for the reasons set forth in the rejection under 35 USC 102 set forth above. Harrison et al. differs in that it is not concerned with additional blowing agents beyond the expandable microspheres and the economical and easy to use co-blowing agent, water. However, Harrison et al.'s disclosure is replete with teaching

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encompassing of the knowledge to use additional additives within their procedures, and examiner holds that the endothermic blowing agents of applicants' claims are well known blowing agents in the art for the purpose of imparting their additive effect. Accordingly, it would have been obvious for one having ordinary skill in the art to have utilized acceptable and less economically feasible blowing alternatives within the procedures of Harrison et al. in order to arrive at the processes and products of applicants' claims with the expectation of success in the absence of a showing of new or unexpected results.

No arguments have been made in regards to this rejection. Accordingly, the rejection is maintained as stated above.

### ***Objections***

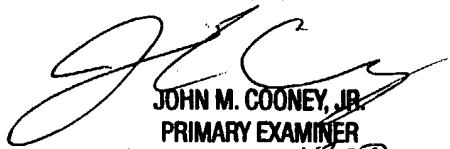
Claims 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 29 is objected to as depending from itself and must be corrected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Cooney whose telephone number is 571-272-1070. The examiner can normally be reached on M-F from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN M. COONEY, JR.  
PRIMARY EXAMINER  
Coup 1700